

Dear Law and Justice Interim Committee Members,

I can not attend your meeting today, but I want to express my concern of what appears maybe to be a built in presumption which sends your SJR29 study in the wrong direction.

"Restorative" justice versus "retributive or revenge" justice is possibly a strawman and not the fundamental question if tweeking or reforming the justice system is in order. I believe the fundamental goal of the law and justice system is neither restoration or retribution --- but rather "deterrence" --- to have social institutions which keep the frequency of behaviors and actions to a minimum which society deems harmful to themselves at large.

While alleviating the losses suffered by victims, or trying to reform the character of the convicted and feelings of the victims may be worth considering as part of the law and justice system, those are not primary but rather auxiliary ends in nature. If focus on those purposes diminishes concentration on and devotion of resources toward successfully deterring criminal behaviors, I believe we move in the wrong direction.

Let me give one example of a trend which seems to be troublesome. I am not familiar with Montana courts specifically, but nationally one sees more and more victims' testimonies during sentencing phases of criminal trials. The judge is apparently supposed to take this victim testimony into account when rendering sentence, as if the emotion-laden articulateness of the victims in each case should affect the severity of the penalties?

But the sentencing by the judge for the crime, in theory being made on behalf of the state (general population), is not (should not be) primarily about the victims; it is about what sentence and penalties serves the best interest of the society at large in deterring further behaviors which just received its conviction. And whether the victims can or can not be reconciled with the offending criminal by various programs seems to me almost irrelevant to what should be done by society with regard to the criminal in the way of penalties, confinement, etc. These latter aspects of law and justice should look primarily at what serves society's interests in deterring such behaviors.

I hope you will keep something like the point of view I bring forth in mind during your study of SJR29; I don't think it a radical perspective or very far from what ordinary citizens think on this matter.

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p.s. My wordpad program seems to have no spell check?

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